Forest Tenure Modernization and the Changing Environment

Faye Johnson, R.P.F.
Director
Ministry of Natural Resources
& Forestry

March 29, 2017
Topics

• State of the Forest Sector in Ontario

• Softwood Lumber

• Tenure Modernization
Ontario’s Forest Asset

Expressed in solid block of wood over City of Toronto
• 11 metres high
• Add 10 cm/yr for growth
• Subtract 3 cm/yr for harvesting
• Subtract 1.5 cm/yr for natural disturbances
Net growth is 5.5 cm annually
2012 Forest Facilities in Ontario

- Operating
- Idled
- Closed
Number of Primary Mills and Employment

Direct Jobs - Labour Force Survey source: Statistics Canada; **Number of Mills, source: MNRF

*Statscan data anomaly issue for 2014 that would account for the variance between years
Today’s Forest Sector

• Ontario’s forest sector:
  – Generates $15.5B in revenues
  – Supports 172,000 direct and indirect jobs
  – Is present in 260 communities

• Primary forest products sector is made up of 47 sawmills, 5 pulp and paper mills, 7 composite and veneer mills, and 9 mills that produce fuelwood and biomass product
Softwood Lumber
Lumber Trade History

Softwood lumber exports to the United States have been subject to litigation under U.S. trade law or controlled by agreement almost continuously since mid-1980s. Trade issues fall under Federal jurisdiction but most provinces are involved with the discussions/negotiations. U.S. trade law creates the framework for both negotiation and litigation.

Lumber IV was the largest trade dispute in the world from 2001-2006.

- SLA2006 expired on October 12, 2015 (one year standstill to October, 2016)
  - Softwood lumber exports are currently in free trade (i.e. no quotas or taxes)
US Lumber Consumption & Canadian Exports

Source: Canadian lumber exports from 2006-2016 is from Global Affairs Canada (GAC).
Trade Litigation

- The U.S. initiated a countervail duty case (CVD) on November 25, 2016
  - If the U.S. determines that softwood lumber is subsidized by federal/provincial governments, it “countervails” the subsidy with a duty payable by exporters

- The U.S. initiated an anti-dumping (AD) investigation at the same time
  - Dumping occurs when companies sell products into foreign markets at prices lower than the “normal value”

- The combined CVD/AD rates in Lumber IV started at almost 28%

$5B was parked at border by the time a deal was negotiated in 2006
US Lumber Consumption & Canadian Exports

Canadian Market Share Utilization in US Market

Source: Canadian lumber exports from 2006-2016 is from Global Affairs Canada (GAC)
Lumber V – Game On!

- Officially started on Nov. 25 with a petition filed by US Coalition
- Questionnaire was 300+ pages and resulted in a 15,000 page submission from Ontario. Total of 70,000 pages for all of Canada.
- Unlike the past, CVD is company-specific rather than aggregate
  - Resolute is only company from eastern Canada being investigated. Three other companies are from the west (West Fraser, Tolko, Canfor)
  - “All others” CVD rate will be heavily weighted to BC
Next Steps

• Wait for US Department of Commerce preliminary determination for countervailing duty (CVD) which is expected in late April

• Wait for US Department of Commerce preliminary determination for anti-dumping (AD) which is expected in late June
  
  – Speculation that duties imposed will most likely be in the 25% to 60% range (combined CVD and AD)

• Prepare for US DOC data verification visit (Summer, 2017)

• CVD/AD final determination and subsequent WTO/NAFTA appeals (Fall, 2017)

• Administrative review (2018)
Major Lumber Exporters in Ontario

- Resolute
- Eacom
- Tembec
- Lecours Lumber
- White River FP
- Longlac Lumber
- Rosko Forestry
- McKenzie Lumber
- Prendiville Industries
Forest Tenure Modernization
2008 Recession and Tenure Modernization

Tenure Modernization began,

- To provide opportunities for new jobs and investment, and to provide new entrepreneurs access to wood
- To develop a more resilient system that could withstand fluctuations in the economy & hold up in US trade disputes
- To address increasing interest from local and Aboriginal communities to be involved in the management of local forests
Forest Tenure Modernization

Enacted the *Ontario Forest Tenure Modernization Act, 2011*, and established NFMC, the first Ontario LFMC

Co-developed of the “*Principles for Enhanced SFL Implementation*” intended to guide the transition towards the establishment of ESFLs

Established a Forest Tenure Modernization Oversight Group

Initiated the Review of Forest Tenure Models

Developed tools to support tenure implementation

Increased involvement of First Nations communities and companies in the management of Ontario’s forests and in forest operations.
Forest Tenure Modernization

**Existing**

- Single Entity Sustainable Forest Licences (SFL)
- Shareholder/Partnership (SFL)
- Community based (SFL)
- Crown Agency – Algonquin Park (CA-AFA)
- Crown Managed (Crown)

**New**

- Crown Agency - Local Forest Management Corporations (CA-LFMC)
- Enhanced Sustainable Forest Licences (eSFL)
Comparing Two New Tenure Models

Local Forest Mgmt Corp (LFMC)
- Crown agency with Board of Directors but ultimate responsibility lies with Minister
- Board member made up of local and indigenous community representatives
- Net revenues can be used to support LFMC objectives
- Consolidated Revenue and Residual Charges set to zero;
- Crown charges associated with Forest Renewal, Forestry Futures and Forest Resources Inventory must be remitted to Crown
- Not for Profit

Enhanced Sustainable Forest Licence (ESFL)
- Incorporated Company report to a Board of Directors
- Board members mainly beneficiary mills and/or harvesters with opportunity for local/indigenous representatives
- All Crown charges remitted to Crown
- May be for-profit or not-for-profit
# Status of Tenure Initiatives

<table>
<thead>
<tr>
<th>NOT INITIATED</th>
<th>PRE-ENGAGEMENT PHASE</th>
<th>ENGAGEMENT PHASE</th>
<th>BUSINESS CONCEPT PHASE</th>
<th>LICENSING PHASE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Planning and funding</td>
<td>Formal kick-off of eSFL participants</td>
<td>Development of Conceptual Business Arrangement</td>
<td>Amend, Transfer or Issue new SFL</td>
</tr>
<tr>
<td></td>
<td>Confirm participants</td>
<td>Forestry Futures Trust Application</td>
<td>Develop Business Arrangement</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Education</td>
<td></td>
<td>Develop Business Plan</td>
<td></td>
</tr>
<tr>
<td>Lake Nipigon / Armstrong (concluded)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kenogami (stalled)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lac Seul</td>
<td></td>
<td></td>
<td></td>
<td>Nawiinginokiima</td>
</tr>
<tr>
<td>Magpie / Martel</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Temagami</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Whiskey Jack</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Crossroute / Sapawe</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Nawiinginokiima Forest Management Corporation
What is a Crown Agency?

- A provincial government organization:
  - established by the government, but not part of a ministry
  - accountable to the government
  - governed by a board of directors
  - holds responsibility to perform a public function or service
  - financially self-sustaining
  - Not-for-profit organization

Note: LFMCs retain portion of Crown stumpage
NFMC Mandate

1. To hold forest resource licences and manage Crown forests in a manner necessary to provide for the sustainability of Crown forests in accordance with the *Crown Forest Sustainability Act, 1994* and to promote the sustainability of Crown forests.

2. **To provide for economic development opportunities for aboriginal peoples.**

3. **To manage its affairs to become a self-sustaining business entity and to optimize the value from Crown forest resources while recognizing the importance of local economic development.**

4. To market, sell and enable access to a predictable and competitively priced supply of Crown forest resources.

5. Other duties as assigned.
Historical Consumption
Enhanced Sustainable Forest Licences (ESFL)
Enhanced Sustainable Forest Licence

- None in place yet

- Discussions ongoing
  - Magpie/Martel
  - Lac Seul

- Pre-engagement ongoing in other areas
Review of Tenure Models

Purpose of Review

- Assess how forest tenure models achieve or are moving towards the objectives of forest tenure modernization
  
  - **Objective 1**: a more economically efficient allocation system
  
  - **Objective 2**: opportunities for meaningful involvement by local communities and local Indigenous communities
  
  - **Objective 3**: sustainable forestry
Review of Forest Tenure Models

- MNRF together with the Forest Tenure Modernization Oversight Group designed the Review, and developed measures to evaluate the performance and effectiveness of the various forest tenure models in relation to achieving the objectives of forest tenure modernization.

- Targeted stakeholder and Aboriginal workshops were held to discuss the draft measures in Fall of 2015. Evaluation measures finalized that winter.

- KBM undertook review of the select Management Units in Spring, Summer, 2016.

- The Oversight Group is using the findings of the review to develop and submit a report to the Minister in the Spring of 2017. The report will have forward-looking recommendations.
Review of Forest Tenure Models

- Fourteen entities reviewed:
  - single entity SFLs (various)**
  - share holder/partnership SFLs (various)**
  - community-based not-for profit (Westwind)
  - the Algonquin Park – Crown Agency (AFA)
  - LFMC – Crown Agency (Nawiinginokiima)
  - Crown managed unit (Temagami)

- No ESFLs reviewed as none established to date

**Lakehead, Dog River-Matawin, Spanish, Big Pic, Kenora, Trout, Temagami, Lake Nipigon, French Severn, Martel, Ottawa Valley, Nipissing, Timiskaming**
Review of Tenure Models

• Observations
  – In many locations, the tenure model has evolved to fit a unique set of social, economic, and ecological characteristics
  – In some cases, SFLs are evolving toward meeting forest tenure modernization objectives
  – All current tenure models have strengths
  – Local/regional economy, population density, forest type, number/type of mill facilities, and markets also very important

• Oversight Group is considering how to encourage further movement towards the modernization objectives in the models, e.g. transparency, governance, Indigenous and local community involvement, and encouraging new entrants.
Review – Lessons Learned

• Transition to new models is a long-term goal that requires significant investment of time

• Significant effort and process needed to align interests of First Nations, local communities, forest industry and government

• The process to develop a new model is instrumental in building relationships (time and space)

• There is little incentive to form an ESFL

• A number of conditions would help to ensure a successful transition to an ESFL

• There will be challenges in filling specialized/management positions once ESFL established in some locations
Faye Johnson, R.P.F.

Director,
Forest Tenure and Economics Branch,
Forest Industry Division

Ministry of Natural Resources and Forestry

Sault Ste. Marie, ON
faye.johnson@Ontario.ca

(705) 945-5860